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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,178	10/20/2003	Johnny B. Shoemaker		2710

7590 06/15/2005

JOHNNY B. SHOEMAKER
12617 LONE MOUNTAIN PASS
LEANDER, TX 78641

EXAMINER

SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,178

Applicant(s)

SHOEMAKER, JOHNNY B.

Examiner

David L. Sorkin

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1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The Brief Description of the Several Views of the Drawing is objected to because Fig. 19 is not referenced.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, it is unclear what is meant by "the handle the means". Also, there is lack of antecedent basis for "the means for gripping". Perhaps "the handle" should be deleted and the claim be made to depend from claim 6, which recites "means for gripping".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 367 768. Regarding claim 1, GB ('768) discloses a mixing sheet comprising a flat, pliable sheet (see Figs. 6 and 7); and a plurality of handles fixedly attached to the outer perimeter (see Figs. 6 and 7; page 1, paragraph 4). Regarding claim 5, the handles are

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manufactured out of composite (see page 1, paragraph 4, "reinforced , heavy gauge plastic fabric"). Regarding claim 6, GB ('768) discloses a flat pliable sheet and means for gripping (see Figs. 6 and 7; page 1, paragraph 4). Regarding claim 7, means for attaching the handle means are disclosed (see Figs. 6 and 7).

6. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Osborn (US 4,580,372). Regarding claim 1, Osborn ('372) discloses a flat pliable sheet (see Fig. 1, col. 4, lines 11-19); and a plurality of handles (14) attached to the outer perimeter of the sheet (see Fig 1). Regarding claim 2, the handles are manufactured from high-density polyethylene (see col. 6, lines 45-51). Regarding claim 6, Osborn ('372) discloses a flat pliable sheet (12); and means for gripping (14). Regarding claim 7, means for attaching are disclosed (see Fig. 3).

7. Claims 1, 4, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitney (US 84,453). Regarding claims 1 and 4, Whitney ('453) discloses a flat, pliable sheet (A); and, a plurality of rope handles fixedly attached to the outer perimeter (see Figs. 1-3; col. 2, lines 4-6). Regarding claim 6, Whitney ('453) discloses a flat, pliable sheet (A); and, means for gripping (see Figs. 1-3; col. 2, lines 4-6). Regarding claim 7, means (a) for attaching are disclosed.

8. Claims 1, 3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Callaway (US 5,564,232). Regarding claim 1, Callaway ('232) discloses a flat, pliable sheet (30); and, a plurality of handles (12) fixedly attached to the outer perimeter of the sheet. Regarding claim 3, the handles are wood (see col. 3, lines 48-55). Regarding

claim 6, Callaway ('232) discloses a flat, pliable sheet (30); and, means for gripping (12). Regarding claim 7, means for attaching are disclosed (see Figs. 2-5).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osborn (US 4,580,372). The thickness of the sheet of Osborn ('372), discussed above, is not disclosed as being between 5 and 10 mils. However, Osborne recognizes thickness as a result effective variable (see col. 4, lines 17-18). It would have been obvious to one of ordinary skill in the art to have optimized the thickness of the sheet to suit a particular intended use, especially considering that Osborn ('372) expressly states in col. 5, lines 18-19) that the dimensions of sheets in accordance with the invention will depend "upon their indented uses".

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS